

SERVICE CONTRACTS ACT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Johnny Anderson

Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill modifies the Service Contracts Act to address regulation of automatic renewals.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ addresses notice requirements;
- ▶ addresses remedy provisions; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2011.

Utah Code Sections Affected:

AMENDS:

15-10-102, as last amended by Laws of Utah 2006, Chapter 167

15-10-201, as last amended by Laws of Utah 2006, Chapter 167

15-10-202, as enacted by Laws of Utah 2003, Chapter 46

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **15-10-102** is amended to read:

15-10-102. Definitions.

30 As used in this chapter:

31 (1) "Automatic renewal provision" means a provision under which a service contract is
32 renewed for ~~[a]~~ one or more specified ~~[period]~~ periods if:

33 (a) the renewal causes the service contract to be in effect more than six months after
34 the day of the initiation of the service contract; and

35 (b) the renewal is effective unless the consumer gives notice to the seller of the
36 consumer's intention to terminate the service contract.

37 (2) "Business consumer" means a person engaged in business if the person enters into a
38 service contract as part of the person's business activities.

39 ~~[(2)]~~ (3) (a) ~~[Except as provided in Subsection (2)(c), "consumer"]~~ "Consumer" means
40 a person receiving service, maintenance, or repair under a service contract.

41 (b) "Consumer" includes a representative of an association subject to:

42 (i) Title 57, Chapter 8, Condominium Ownership Act; or

43 (ii) Title 57, Chapter 8a, Community Association Act.

44 ~~[(c) "Consumer" does not include a person engaged in business for profit if the person~~
45 ~~enters into the service contract as part of the person's business activities.]~~

46 ~~[(3)]~~ (4) "Seller" means a person providing service, maintenance, or repair under a
47 service contract.

48 ~~[(4)]~~ (5) (a) "Service contract" means ~~[any]~~ a contract for service, maintenance, or
49 repair:

50 (i) in connection with ~~[any]~~ real property; or

51 (ii) that provides a benefit to ~~[any]~~ the real property.

52 (b) "Service contract" does not include a contract affecting any right, title, estate, or
53 interest in real property, including:

54 (i) a fee title interest;

55 (ii) a leasehold interest;

56 (iii) an option contract relating to real property;

57 (iv) a real estate purchase contract;

58 (v) an easement; or
 59 (vi) any other real property interest governed by Title 57, Real Estate.
 60 Section 2. Section **15-10-201** is amended to read:

61 **15-10-201. Notice requirement.**

62 (1) ~~[A]~~ Except as provided in Subsection (1)(b), a service contract may not contain an
 63 automatic renewal provision unless the seller provides the consumer written notice complying
 64 with Subsection (2) that informs the consumer of the automatic renewal provision.

65 (2) (a) For a service contract executed on or after July 1, 2011, that exceeds 12 months
 66 for a renewal period, a seller shall provide written notice of an automatic renewal provision
 67 prominently displayed on the first page of the service contract.

68 ~~[(2)(a) The]~~ (b) In addition to complying with Subsection (2)(a), a seller shall provide
 69 ~~[the]~~ written notice required under Subsection (1) to the consumer:

- 70 (i) personally;
- 71 (ii) by certified mail; or
- 72 (iii) prominently displayed on the first page of a monthly statement.

73 ~~[(b)(i) The]~~ (c) (i) A seller shall provide ~~[the]~~ written notice ~~[required]~~ under
 74 Subsection ~~[(1)]~~ (2)(b):

75 (A) no later than 30 calendar days before the last day on which the consumer may give
 76 notice of the consumer's intention to terminate the service contract; and

77 (B) no sooner than 90 calendar days before the last day on which the consumer may
 78 give notice of the consumer's intention to terminate the service contract.

79 (ii) ~~[The]~~ A seller may not provide ~~[the]~~ written notice required under Subsection (1)
 80 except:

- 81 (A) as provided in Subsection (2)(a); or
- 82 (B) during the time period described in Subsection ~~[(2)(b)(i)]~~ (2)(c)(i).

83 ~~[(c) The written]~~ (d) Written notice required under Subsection (1) shall be:

- 84 (i) written in clear and understandable language; and
- 85 (ii) printed in an easy-to-read type size and style.

86 Section 3. Section **15-10-202** is amended to read:

87 **15-10-202. Remedy for violation.**

88 [~~H~~] (1) Subject to Subsection (2), if a seller does not comply with Section 15-10-201
89 with respect to a service contract containing an automatic renewal provision:

90 [~~+~~] (a) the automatic renewal provision is void and unconscionable as a matter of
91 public policy; and

92 [~~2~~] (b) the service contract shall automatically renew on a month-to-month basis.

93 (2) Subsection (1) applies to an automatic renewal provision in a service contract with
94 a business consumer for which a seller does not comply with Section 15-10-201 only if the
95 service contract is executed on or after July 1, 2011.

96 Section 4. **Effective date.**

97 This bill takes effect on July 1, 2011.